REMARKS

Claims 1-51 and 61-89 are pending in the application. No amendments or new claims are being introduced. Applicant believes no new matter is being introduced by way of the following remarks.

Regarding § 103 Rejection

Claims 1-7, 11-16, 18-24, 28-30, 32, 33, 35, 36, 38, 39-41, 43-48, 50, 51, 62, 64, 66, 68, 70, 72, 74-79, and 84-89 stand rejected under 35 U.S.C. 103 (a) as being unpatentable over Primak et al. (Pub. No. 2001/0039585), hereinafter "Primak" in view of Logan et al. (USPN 6,578,066), hereinafter "Logan."

Applicant acknowledges and agrees with the Office Action that Primak describes, "that the feedback comes from the DNS agent located on one or more servers within the server cluster." However, Applicant respectfully disagrees that Primak teaches "the central server receiving feedback from the individual servers," clearly recited in Applicant's claim 1.

The Office Action points out that Primak's DNS server (central server) receives feedback from the DNS agents (individual servers). See Primak [0023] referring to FIG. 2. The Office Action, however, fails to point out that the Primak's DNS server is adapted to interrogate individual servers.

Primak's DNS agents, not the DNS server, are adapted to interrogate individual servers. See Primak [0025] (DNS server instructs DNS agents to ping) and [0028] (DNS agents ping gateway and evaluate ping responses in response to instructions by DNS server). As such, Primak's DNS agent is the <u>interrogating</u> network node (i.e., the entity conducting the interrogation), and Primak's gateway is the <u>interrogated</u> network node (i.e., the entity subjected to the interrogation). Primak's DNS server receives feedback from the interrogating network nodes (DNS agents). Primak's DNS server does <u>not</u> receive feedback from the interrogated network node (gateway). See Primak [0028] ("After a DNS agent 32 receives and evaluates the ping response, the DNS agent transmits the round-trip time and error rate value for the client path (collectively referred to herein as the "client connection value") to the DNS 10."). See also FIG. 2 (illustrating "feedback" from DNS agents 32 to DNS server 10 with arrowed single lines)

and FIG. 4 (illustrating feedback from DNS agents in server clusters 30a-e to DNS server 10 with arrowed single lines, and DNS agents "interrogating" gateway 50 with arrowed double lines).

Accordingly, Applicant respectfully submits, again, that contrary to Applicant's explicit recitation in claim 1, Primak describes receiving feedback from a network node which interrogates, as opposed to an interrogated network node.

Moreover, Primak teaches away from, or, at a minimum, provides no motivation or suggestion for, receiving feedback from an interrogated network node. Primak describes the DNS agent (interrogating network node) evaluating the response to its ping to determine the error rate value for its client path, i.e., the connection between the gateway and the server cluster on which the originating DNS agent resides (the server cluster and gateway combination). Primak, paragraph [0028]. As such, the gateway (interrogated network node) simply lacks any information with which to feedback.

Accordingly, Primak neither teaches nor provides motivation for Applicant's claim 1 of "the central server receiving feedback from the interrogated individual servers indicating service by the individual servers in response to client requests and modifying the server selection weights based on the feedback." Applicant respectfully submits, again, claim 1 should be allowed. Additionally or alternatively, claim 1 should be allowed for the reasons provided below.

Primak, Logan or the combination Primak and Logan provide no motivation for Applicant's invention as claimed in claim 1 ("the central server receiving feedback...indicating service by individual servers in response to client requests and modifying the server selection weights based on the feedback").

Primak describes selecting a connection from a client gateway to a server cluster ("client path") with the lowest round-trip time and error rate ("client connection values") from among several client gateway and server cluster combinations. Primak, paragraphs [0028]-[0029] in reference to FIGS. 4, 6, and 7. Because Primak characterizes a path to select a "best" server, there is no notion in Primark that receiving indications of service by individual servers, let alone modifying a server selection based on these indications, is of interest.

Logan describes (in reference to Tables 1-3) selecting a site that is preferred by the greatest number of peer sites. Because Logan uses the preference of an entire site, as evaluated and preferred by peer sites, to select a "best" server, there is no notion in Logan that receiving indications of service by individual servers, let alone modifying a server selection based on these indications, is of interest.

Accordingly, neither Primak nor Logan, nor combination thereof, provide motivation for Applicant's claim 1, ("the central server receiving feedback...indicating service by individual servers in response to client requests and modifying the server selection weights based on the feedback"). Applicant respectfully submits that the rejection of claim 1 under 35 U.S.C. 103 (a) is improper and should be withdrawn.

Independent claims 19, 35, 40, 45, and 47 have similar limitations and should be allowed for similar reasons as presented above.

Claims 2-7, 11-16, 18, 20-24, 28-30, 32, 33, 36, 38, 39, 41, 43-44, 46, 48, 50, 51, 62, 64, 66, 68, 70, 72, 74-79, and 84-89 should be allowed for the same reasons as the independent claims from they depend.

Claims 17, 34, and 80 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Primak in view of Logan in view of Meek et al. (USPN 6,539,426), hereinafter "Meek."

Because claims 17, 34, and 80 depend from the independent claims, the above remarks apply. Therefore, because these claims depend from the independent claims, Applicant respectfully submits they should be allowed for at least the same reasons.

Claims 8-10, 25-27, 37, 42, 49, 73, and 81-83 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Primak in view of Logan in view of Guenthner et al. (USPN 6,134,588), hereinafter "Guenthner."

Because claims 8-10, 25-27, 37, 42, 49, 73, and 81-83 depend from the independent claims, the above remarks apply. Therefore, because these claims depend from the independent claims, which should be allowed under 35 U.S.C. § 103(a) for reasons presented above, Applicant respectfully submits the dependent claims should be allowed for at least the same reasons.

Claims 61, 63, 65, 67, 69, and 71 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Primak in view of Logan in view of Lin (USPN 6,298,451).

Because claims 61, 63, 65, 67, 69, and 71 depend from the independent claims, the above remarks apply. Therefore, because these claims depend from the independent claims, which should be allowed under 35 U.S.C. § 103(a) for reasons presented above, Applicant respectfully submits they should be allowed for at least the same reasons.

CONCLUSION

In view of the above remarks, it is believed that all now pending claims (claims 1-51 and 61-89), are in condition for allowance, and it is respectfully requested that the application be passed to issue. If the Examiner feels that a telephone conference would expedite prosecution of this case, the Examiner is invited to call the undersigned.

Respectfully submitted,

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